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May 8, 2014

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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE - PURSUIT OF POSITION ON REDEVELOPMENT LEGISLATION

Executive Summary

This update contains a report on the following:

- **Pursuit of County Position to Oppose SB 1129 (Steinberg).** This bill would make several changes to the law governing the dissolution of redevelopment agencies. Specifically, SB 1129 would: 1) authorize a successor agency, if it has received a Finding of Completion from the Department of Finance (DOF), to enter into or amend existing contracts and agreements, or otherwise administer projects in connection with enforceable obligations, if the contract, agreement, or projects will not commit new property tax funds or otherwise adversely affect the flow of tax revenues or payments to the taxing agencies; 2) include within the definition of "enforceable obligation" an agreement entered into between the redevelopment agency prior to June 30, 2011, if the agreement relates to State highway infrastructure improvements to which the redevelopment agency committed funds; 3) authorize a successor agency to use proceeds from bonds issued during the 2011 calendar year, upon approval of the oversight board, if the use of those bond proceeds is consistent with the sustainable communities strategy adopted by the Metropolitan Planning Organization (MPO); 4) specify that a compensation agreement between taxing entities is not required for the disposition of properties pursuant to a long-range property management plan (LRPMP) and prohibit DOF from requiring compensation agreements as part of the approval of a LRPMP; 5) specify that DOF shall only consider whether the LRPMP makes a good faith effort to inventory all the properties and addresses

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the use or disposition of all the properties; and 6) delete the requirement that DOF approve a LRPMP by January 1, 2015, and instead, require DOF to approve the LRPMPs as expeditiously as possible. **Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose proposals that would eliminate, reduce, or delay the flow of any source of funds allocated to taxing entities by ABx1 26 of 2011 as amended by AB 1484 of 2012, the Sacramento advocates will oppose SB 1129 unless amended to remove the provisions which would: 1) eliminate requirements for compensation agreements; 2) limit DOF's authority to conduct a meaningful review and analysis of LRPMPs; and 3) allow successor agencies to enter into or amend contracts and agreements.**

Pursuit of County Position on Legislation

SB 1129 (Steinberg), as amended on April 22, 2014, would make several changes to the law governing the dissolution of redevelopment agencies (RDAs). Specifically, this bill would:

- 1) authorize a successor agency, if it has received a Finding of Completion from the DOF, to enter into or amend existing contracts and agreements, or otherwise administer projects in connection with enforceable obligations, if the contract, agreement, or projects will not commit new property tax funds or otherwise adversely affect the flow of tax revenues or payments to the taxing agencies;
- 2) include within the definition of "enforceable obligation" an agreement entered into between the redevelopment agency prior to June 30, 2011, if the agreement relates to State highway infrastructure improvements to which the redevelopment agency committed funds pursuant to specified law;
- 3) authorize a successor agency to use proceeds from bonds issued during the 2011 calendar year, upon approval of the oversight board, if the oversight board, in consultation with the relevant Metropolitan Planning Organization (MPO) determines that the use of those bond proceeds is consistent with the sustainable communities strategy adopted by the MPO;
- 4) require, prior to the removal of an enforceable obligation from a Recognized Obligation Payment Schedule (ROPS) that has received a Finding of Completion from DOF, that the action be submitted to the oversight board for review and approval;

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- 5) specify that a compensation agreement between taxing entities is not required for the disposition of properties pursuant to a LRPMP and prohibit DOF from requiring compensation agreements as part of the approval of a LRPMP;
- 6) specify that DOF shall only consider whether the LRPMP makes a good faith effort to inventory all the properties and addresses the use or disposition of all the properties; and
- 7) delete the requirement that DOF approve a LRPMP by January 1, 2015, and instead, require DOF to approve a LRPMP "as expeditiously as possible."

SB 1129 includes many of the provisions that were amended out of recently enacted **AB 471 (Atkins)** before it was passed by the Legislature and signed by the Governor in February 2014.

Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. This includes overseeing the development of properties until the contracted work has been completed or the contractual obligation of the former redevelopment agency can be transferred to other parties, and requiring bond proceeds to be used for the purposes for which bonds were sold, except as specified. However, existing law also prohibits a successor agency from entering into contracts with, incur obligations, or make commitments to, any entity, as specified, or to amend or modify existing agreements, obligations, or commitments with any entity, for any purpose.

Under current law, the Department of Finance is required to issue a finding of completion to a successor agency upon confirmation by the county auditor-controller that specified payments have been fully made by the successor agency, as specified. Existing law also requires the disposition of assets and properties of the former redevelopment agency as directed by the oversight board, as specified, and suspends these requirements until the DOF has approved a LRPMP, as specified. Upon approval of a LRPMP, the plan governs and supersedes, all other provisions relating to the disposition and use of the real property assets of the former redevelopment agency. The property of a former redevelopment agency must be disposed of according to law if the DOF has not approved a LRPMP by January 1, 2015.

Existing law requires a city, county, or city and county that wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds

and under its own auspices, to reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax for the value of the property retained, as specified.

This office and County Counsel have analyzed SB 1129 and have identified the following concerns. First, the provisions which would eliminate the requirements for compensation agreements between a successor agency and the affected taxing entities for properties that will be retained for future development could limit or eliminate the ability of the taxing entities to receive revenue from these properties. Although existing law does not specifically authorize DOF to require a compensation agreement as part of the LRPMP approval process, the DOF has taken the position that compensation agreements are required. This office maintains that compensation agreements are a useful tool to protect the County's financial and long-term development interests because they allow taxing entities to share in the revenues resulting from the sale of properties purchased with property tax funds that were previously redirected from the various taxing entities to redevelopment agencies. Further, compensation agreements can help to ensure that properties retained by cities and counties are used in a way that is consistent with the intended use of the property and provide flexibility to taxing entities in negotiating the disposition of parcels in a way that meets the specific interests of all parties.

Second, the provisions authorizing successor agencies to amend or enter into contracts in connection with enforceable obligations create uncertainty in future residual property tax revenue. It is very difficult to predict, until after the fact, whether a new contract or amendment will adversely impact the flow of property tax revenue to the taxing agencies. Once a new contract is formed, then third party reliance is established which can bind the successor agency to commit future revenue to the third party to the detriment of the taxing entities. It is also very difficult to determine the fiscal impact to the taxing entities despite the bill's provisions indicating that these amendments, or creation of new contracts, would be to administer projects in connection with enforceable obligations. It is uncertain the number of projects that will be included, the number of cities that may exercise this option, additional enforceable obligation payment terms that may be changed such as increased duration, and the resulting impact to the future residual property tax revenues that are distributed to the affected taxing entities.

The Community Development Commission (CDC) indicates that the County is awaiting approval of its long-range property management plan (LRPMP) which was submitted to the DOF in July 2013. CDC reports that there is significant uncertainty as to how the process for disposing of properties included in the LRPMP once it is approved. Currently, the DOF has been directing successor agencies to seek compensation

agreements with other taxing entities for properties that will be retained for future development. CDC indicates that this requirement could negatively impact the County by potentially delaying County-supported projects, particularly the Maravilla and Willowbrook transit-oriented development projects, as each proposed compensation agreement is negotiated with the other taxing entities.

The CDC also notes that each successor agencies oversight board, which includes county-appointed board members, must approve any real estate transaction, and that these board members should protect the County's financial interest in these transactions. Lastly, CDC indicates that if property disposition is delayed while a compensation agreement is being negotiated, that property would remain exempt from taxation, reducing property tax income from the County's general fund.

This office opposes SB 1129 because it would eliminate the requirement that a city, county, or city and county that wishes to retain any properties or assets for future redevelopment activities to reach a compensation agreement with the other taxing entities. The bill would also eliminate a meaningful review of LRPMPs by DOF, and potentially result in the inadvertent commitment of additional property tax funds. This office notes that compensation agreements are a useful tool to protect the County's financial and long-term development interests, as well as the financial interests of other taxing entities, and should continue to be required as under current law. This office also believes that limiting DOF's review and analysis of a LRPMP to only consider whether a successor agency has made a "good faith effort" to address the requirements for a LRPMP would weaken the review and analysis of what is to be the guiding document for the disposition of property. Finally, language in SB 1129 would prohibit the commitment of new property tax funds, or otherwise adversely affect the flow of specified tax revenues or payments to the taxing agencies, allowing successor agencies to enter into new or to amend existing contracts. However, this might result in inadvertent commitment of resources from the Redevelopment Property Tax Trust Fund due to third-party reliance. **Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose proposals that would eliminate or reduce or delay the flow of any source of funds allocated to taxing entities by ABx1 26 (Chapter 5, Statutes of 2011) as amended by AB 1484 (Chapter 26, Statutes of 2012), the Sacramento advocates will oppose SB 1129 unless amended to remove the provisions which would: 1) eliminate requirements for compensation agreements; 2) limit DOF's authority to conduct a meaningful review and analysis of LRPMPs; and 3) allow successor agencies to enter into or amend contracts and agreements.**

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SB 1129 is supported by BRIDGE Housing; California Infill Builders Federation; the City of Folsom, Glendale City Employees Association, San Bernardino Public Employees Association, and San Luis Obispo County Employees Association, among others. The bill is opposed by the County of Santa Clara and the California Special Districts Association.

SB 1129 passed the Senate Governance and Finance Committee by a vote of 4 to 2 on April 9, 2014. The bill was placed in the Senate Appropriations Suspense File on May 5, 2014.

We will continue to keep you advised.

WTF:RA
MR:VE:AO:ma

c: All Department Heads
Legislative Strategist
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League of California Cities
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